

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, SS

**State Building Code Appeals Board¹
Docket No. 05-357**

David Ward, LD Builders, LLC,
Appellant

vs.

William Thornton, Pittsfield
Building Commissioner,
Appellee

BOARD'S RULING ON APPEAL

Procedural History

This matter came before the State Building Code Appeals Board ("the Board") on the Appellant's appeal filed pursuant to 780 CMR 122.1. In accordance with 780 CMR 122.3, Appellant asks the Board to grant a variance from 780 CMR 1010.2 and 780 CMR 1006.4 and 780 CMR 1006.5 of the Massachusetts State Building Code ("MSBC") for The Pines at Bousquet Mountain, Alpine Trail, Pittsfield, MA. At issue is whether the current means of egress from the dwelling units meet the egress requirements as set forth in Chapter 10 of the MSBC.

In accordance with MGL c. 30A, §§ 10 and 11; MGL c. 143, §100; 801 CMR 1.02 et. Seq.; and 780 CMR 122.3.4, the Board convened a public hearing on January 23, 2007 where all interested parties were provided with an opportunity to testify and present evidence to the Board.

¹ This is a concise version of the Board's decision. You may request a full written decision within 30 days of the date of this decision. Requests must be in writing and addressed to: Department of Public Safety, State Building Code Appeals Board, Program Coordinator, One Ashburton Place, Room 1301, Boston, MA 02108.

Present and representing the owner was, David Ward, LD Builders, LLC ("Appellant"). Present and representing the City of Pittsfield Building Department was William Thornton ("Appellee"). Also present were Jay Ierardi, Jeromy Richardson, Jim Scalise, Gordon Bailey and Matt Ward.

Findings of fact

1. The subject property is new construction of three townhouse units in each building (Use Group R-3 Dwelling Units) located on Bousquet Mountain in Pittsfield, Massachusetts. Each individual unit consists of two floors plus a walkout basement.
2. In each unit, there are two means of egress from the basement level. There is a large slider at the rear of the unit that leads directly to grade. The second exit is a set of stairs near the front of the building that leads to the first floor. Directly atop the stairs is the front door exit.
3. In each unit, there are three means of egress from the first floor level in addition to the emergency escape windows from the master bedroom. There is a main door at the front of the building, which leads directly to grade. there is a second door at the front of the building that leads to the garage. Finally, there are the interior stairs that lead into the basement, where the rear slider can be accessed.
4. In each unit, the second floor has the one set of stairs that lead to the first floor, near the front door, in addition to the emergency escape windows within each bedroom.
5. The installation of stairs off of the first floor rear deck, to create a second means of egress from the first floor, is esthetically unappealing and a financial hardship to the Appellant. It would also be difficult to construct as the rear of the buildings face downside the mountain.

Discussion

A motion was made to Grant the Appellant's request for a variance from 780 CMR 1010.2 and 780 CMR 1006.4 and 780 CMR 1006.5 of the MSBC to allow for the waiver of a second means of egress from the first floor – the installation of stairs off of the first floor rear deck. The motion was unanimously approved as the current means of egress from each dwelling unit meet the overall intent of Chapter 10 of the MSBC.

Conclusion

The Appellant's request for a variance from 780 CMR 1010.2 and 780 CMR 1006.4 and 780 CMR 1006.5 is hereby **GRANTED**.


SO ORDERED.



HARRY SMITH



KEITH HOYLE



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DATED: March 30, 2007

** In accordance with M.G.L. c. 30A § 14, any person aggrieved by this decision may appeal to the Superior Court within 30 days after the date of this decision.*